

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 488 - HB 1140**

February 21, 2017

**SUMMARY OF BILL:** Creates a status offense applicable only to minors prohibiting the creation, receipt, exchange, transmittal, or possession of a photograph, video, or other material showing a minor in the state of nudity, even if the minor in such a state is the minor committing the offense, through the use of a telecommunication device.

**ESTIMATED FISCAL IMPACT:**

**NOT SIGNIFICANT**

**Assumptions:**

- The proposed legislation provides that a minor commits an offense when the minor intentionally, knowingly, or recklessly uses a telecommunications device to create, receive, exchange, send, or possess for a photograph, video, or other material showing a minor in a state of nudity, even if the minor in a state of nudity is the minor committing the offense.
- The proposed legislation asserts that illegal use of a telecommunications device is a delinquent act that would be a Class A misdemeanor if committed by an adult and committed intentionally or knowingly and that would be a Class B misdemeanor if committed by an adult and committed recklessly.
- The proposed legislation creates a status offense, as defined in Tenn. Code Ann. § 37-1-102(b)(10) and (24).
- Tennessee Code Annotated § 37-1-102(b)(10) defines “delinquent act” as an act designated as a crime under the law, including local ordinances of the state, or of another state if the act occurred in that state, or under federal law, and the crime is not a status offense under subdivision (24)(C). Under Tenn. Code. Ann. § 37-1-102(24)(C), a status offense is an offense that is applicable only to a child.
- The proposed legislation applies only to minors. Therefore, it is a status offense.
- Though the proposed legislation alludes to the new offense being a Class A or Class B misdemeanor based upon the minor’s culpable mental state, the offense does not provide for the charging and prosecution of a minor for a misdemeanor act.
- Any offenses committed under the statute will be disposed of in juvenile court, and any time served by a minor will be in juvenile detention.

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- The Administrative Office of the Courts and the Department of Children's Services confirm that the proposed legislation will not significantly impact their caseloads or significantly increase their expenditures related to juvenile detention.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm